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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/025,558	12/26/2001	Michael Clarence Claerhout	4059/21	8304

7590 08/02/2002

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EXAMINER

BUTLER, DOUGLAS C

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 08/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.



10/025,558

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DATE MAILED:

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☒ Responsive to communication filed on 12/26/01 ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- | | |
|-----------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449. | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152. |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-2, 12-13, 18 are pending in the application.

Of the above, claims _____ are withdrawn from consideration.

2. ☒ Claims 3-11, 14-17, 19-21 have been cancelled.

3. ☐ Claims _____ are allowed.

4. ☒ Claims 1-2, 12-13, 18 are rejected.

5. ☐ Claims _____ are objected to.

6. ☐ Claims _____ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on _____. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed _____, has been ☐ approved; ☐ disapproved (see explanation).

12. ☒ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☒ not been received
☐ been filed in parent application, serial no. _____; filed on _____.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

1. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in the New Zealand on June 24, 1999. It is noted, however, that applicant has not filed a certified copy of the foreign application as required by 35 U.S.C. 119(b).

2. The Form 210 and Form 409 from the international search report have been considered. The documents from the report were not submitted to the USPTO but the examiner has nonetheless considered them and made them of record. It is unclear from the Search Report what the contents of the amendment of Sept. 17, 2001 and Sept. 18, 2001 were which resulted in the findings in the Form 409 that claims 1-18 were novel and included an inventive step.

Clarification appears necessary to set forth a clear and complete record.

3. Claims 1-2, 12-13 and 18 are pending with claims 3-11, 14-17 and 19-21 having been canceled by way of the preliminary amendment filed Dec. 26, 2001, designated as Paper No. 4.

4. In claim 1, line 7 "a" before "braking actuator mechanism" should be changed to --said-- in view of the previous recitation in claim 1, line 3 of "a braking actuator mechanism".

5. In claim 1, line 4 "the apparatus towed" should be changed to --said towed vehicle--. See claim 1, line 1.

6. Claim 1, line 7 "a" before "towed" should be changed to --said-- since "a towed vehicle" appears in claim 1, line 1.

7. Claim 18, line 1 "the" before "towed vehicle" should be changed to --a--.

8. Claim 18, line 2 "the" before "towing vehicle" should be changed to --a--.

9. Claim 18, line 3 "a" before "towing vehicle" should be changed to --said--.

10. Claim 18, line 5 "apparatus" should be changed to --vehicle.

11. Claim 18, line 10 "the" before "brake actuator mechanism" should be changed to --a--.

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12. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the feature of the "park brake assembly" of claim 2, line 1 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

See page 10, lines 16-17 of the instant specification. Also, boxes 2, 3, 4, 5, 9, 30, 31 should be labeled.

13. Claim 12, line 3 "any" should be changed to --a--.

14. The examiner generally agrees with the findings in Form 210 set forth in the International Search Report. Pursuant to MPEP 707.07(g), MPEP 904.03, MPEP 706.02 multiple rejections and cumulative rejections are to be avoided under U.S. patent practice unless necessary as set forth in MPEP 706.02. Therefore, the examiner has not included all grounds of "rejection" set forth from the international report.

15. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

16. Claims 1-2 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Wood (5709435).

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Re claim 1, Fig. 1 of Wood discloses a tractor or towing vehicle 10 and a trailer or towed vehicle 20. Fig. 2 of Wood discloses at least one braking sensor 32 located on the towing vehicle 10, a control unit 30 for communication with a braking actuating mechanism 48 located on the apparatus towed, readable on towed or trailer 20, wherein the control unit 30 can determine braking force by the braking sensor 32. The braking unit 30 signals a braking actuator mechanism 48 to apply a braking force to the towed vehicle 20 proportional to the force applied to the braking sensor 32.

Re claim 2, "a park brake assembly" is recited. Since the braking assemblies 14 and 24 of Fig. 2 are used to slow the vehicle, the braking assemblies of Wood encompass the limitation as broadly recited.

Re claim 18 which is directed to a method of applying a braking force to a towed vehicle, Wood performs all steps recited in claim 18. Claim 18 recites "sensing the force applied to the brake sensor". Brake pedal 18 of Wood is pressed on with ^{sensor} ~~sensor~~ 32 located on the towing vehicle 10 "sensing" the force applied. Re the converting step of claim 18, line 8, the control system 30 of Fig. 2 of Wood converts the force applied to sensor 32 while control system 30 signals the brake actuator mechanism 48 to apply a predetermined proportional braking force to the brake cylinders 24 of the towed vehicle 20.

17. Claims 12-13 are not considered to be rejectable under 35 USC 102 or 35 USC 103 over Wood since the brake actuator mechanism 48 of Fig. 2 of Wood is not operated independently of the towed vehicle 10. See column 4, lines 2-12 of Wood which clearly states that although the brake systems of the towing (10) and towed (20) vehicle are independent, functionally or operationally, the towed brakes ^{are} ~~are~~ operated by operating the towing brakes.

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18 Claims 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by McGrath et al (5620236).

Claim 12 recites the operation of the brakes of a towed vehicle independently of the towing vehicle. See Fig. 1 of McGrath et al which shows the towing and towed vehicles. Column 4, lines 13-27 teach that the brakes 13, 14 of the towed vehicle are operated independently of the towing vehicle.

Re claim 13, the towed brakes 13, 14 are operated for a predetermined time and amount of force.

19. Claims 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Marshall et al. (4254998).

Fig. 8 of Marshall et al. illustrates the towing vehicle 22 and towed vehicle 20 with Fig. 1 disclosing the brake actuator mechanism 148 of the towed vehicle. Re instant claim 12, the towed vehicle brakes operate independently of the towing vehicle during swaying of the towed vehicle 20. See column 4, line 44 to column 8, line 63 re independent trailer brake control. Re instant claim 13, independent control is for a predetermined time and force. See claim 15 of Marshall et al with full and partial braking based upon the amount of sway to be alleviated.

20. Note pressure sensitive brake pad arrangement of Leonard et al (5115162).

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Butler whose telephone number is (703) 308-2575.

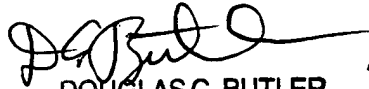
The examiner can normally be reached on Monday to Friday from 5:30 a.m. to 2 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Lavinder can be reached on (703) 308-3421. The fax phone number for the organization where this application or proceeding is assigned is (703)305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308111.

Butler/kl
July 18, 2002


DOUGLAS C. BUTLER
PRIMARY EXAMINER
7/27/02
AU 3683